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Amendment
Attorney Docket No. S63.2B-11022-US01

Amendments To The Drawings:

Replacement pages have been included herewith.

The drawings have been amended as follows:

In Figure 1, the cross-hatching has been removed from the balloon and from the inflation lumen indicated by reference numeral 60.

Figures 3 and 4 have been labeled as --Prior Art--.

Reference numeral "20" in figure 6 has been deleted and replaced with a reference numeral "24".

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Remarks

The examiner has renumbered the claims 1-16. The examiner asserts that the Preliminary Amendment filed April 14, 2004 was not entered because the numbering of the claims is improper and that claim 9 should be added in response to this office action as new claim 17. Applicants wish to point out that the Preliminary Amendment was submitted concurrently with the application as filed and as such is part of the original disclosure, and that claim 9 should have then at least been renumbered as part of the originally filed claim set. However, Applicants are resubmitting claim 9 as new claim 17. Applicants request that new claim 17 be examined with claims 1-8. Support for new claim 17 is found on page 7, last paragraph of the specification. No new matter has been added.

Claims 9-16 have been withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention.

In the Office Action the drawings were been objected to under 37 CFR §1.83(a). It is asserted in the Office Action that figure 1 as described fails to show the inflation lumen and the whole balloon seems to be solid instead of hollow. It is asserted in the Office Action that figures 3 and 4 should be designated by a legend such as --Prior Art--. It is asserted in the Office Action that reference character "20" has been used to designate both curved outer surface in figure 3 and inner surface in figure 6.

Applicants have amended the figures as follows:

The cross-hatching has been removed from figure 1. The inflation lumen was indicated by reference numeral 60 in figure 1 as filed. However, the cross-hatching has been removed from the inflation lumen.

Figures 3 and 4 have been labeled as --Prior Art--.

Reference character "20" has been deleted from figure 6 and replaced with reference numeral "24". The specification has been amended accordingly.

No new matter has been added.

Applicants have included replacement drawings with this response. Applicants respectfully request withdrawal of the objections to the drawings under 37 CFR §1.83(a).

The Office Action asserts that the oath or declaration is defective because it does not identify the mailing address of each inventor. Applicants submit that an application data

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sheet was included which includes the mailing address of each inventor. Please note the last two sentences on page 4 of the Office Action wherein the examiner has recited MPEP §§602.01 and 602.02: "The mailing address may be provided in an application data sheet or a supplemental oath or declaration. See 37 CFR 1.63(c) and 37 CFR 1.76." Applicants submit that the declaration has therefore been filed in accordance with the rules of practice.

In the Office Action the specification is objected to. The Office Action asserts that the abstract of the disclosure contains the word "comprises". Applicants have amended the Abstract to delete the word "comprises".

Claim Rejections

35 U.S.C. 102(b)

In the Office Action, claims 1-3, 6 and 8 have been rejected under 35 U.S.C. §102(e) as being anticipated by Bolduc et al. (US 6,622,367). The Office Action asserts that Bolduc et al. disclose a catheter (fig. 34) as claimed.

Claim 1 has been amended to incorporate the limitations of claim 2. Further support can be found from Fig. 6 and the description of Fig. 6 on page 6, lines 32-34 and page 7, lines 1-10.

Applicants assert that Fig. 34 of Bolduc et al. is illustrative of an embodiment wherein the distal end of the device described therein has a liner extending beyond a reinforcing layer and a jacket and the end of the liner is everted for a length of at least 0.5 mm, more preferably 1-2 mm, and preferably 2mm to form the soft tip. See col. 26, lines 3-16 and Fig. 34. The definition of evert as found in The American Heritage College Dictionary, Third Edition, Houghton Mifflin Company, pg. 475 (2000), is "[t]o turn inside out or outward."

Claim 1 of the present invention is not directed to a liner which everts as in Fig. 34 of Bolduc et al.

Thus, Applicants assert that claim 1 as amended is not anticipated by Bolduc et al. Claims 2-3, 6 and 8 depend from claim 1 and are patentable over Bolduc et al. for at least the reasons that claim 1 is patentable. Applicants respectfully request withdrawal of the rejection of claims 1-3, 6 and 8 have been rejected under 35 U.S.C. §102(e) as being anticipated by Bolduc et al. (US 6,622,367).

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In the Office Action claims 1, 2, 4-6 and 8 have been rejected under 35 U.S.C. §102(b) as being anticipated by Peterson et al. (US 6,503,353). The Office Action asserts that Peterson discloses a catheter (fig. 4) as claimed.

Claim 1 has been amended to incorporate the limitations that the inner surface of the catheter shaft proximal the distal end is substantially straight and the outer surface of the catheter shaft proximal the distal end is substantially straight. See claim 2 and Fig. 6 of the present application. Applicants submit that the soft tip 30 shown in Fig. 4 of Peterson et al., in contrast, has neither an inner nor an outer surface which are substantially straight proximal the distal end. Rather, both the inner and outer surface are bowed outwardly. Consequently, the invention of claim 1 is not the same as that of Fig. 4 of Peterson et al., US 6,503,353 as required under 35 U.S.C. §102(b) for at least these reasons.

Claim 2 has been canceled. Claims 4-6 and 8 depend from claim 1 and are patentable for at least the reasons that claim 1 is patentable. Applicants respectfully request withdrawal of the rejection of claims 1, 4-6 and 8 under 35 U.S.C. §102(b) being anticipated by Peterson et al. (US 6,503,353).

In the Office Action claims 1, 2, 7 and 8 have been rejected under 35 U.S.C. §102(b) as being anticipated by Mueller (US 4,801,297). The Office Action asserts that Mueller discloses a catheter (figs 1-2) as claimed.

Applicants disagree.

Applicants assert that Mueller describes, beginning at line 43 of col. 2, a tapered tip 18, which may have a softer exterior material 30 of a co-extrusion which is rolled around and over the rigid inner material 32, thereby removing the abrasive edge normally present due to the rigid inner material 32 (see Fig. 2). The rigid inner material 32 as shown in Fig. 2 of Mueller, and described at col. 2, lines 43-59, does not have an inner surface which curves toward the outer surface as recited in claim 1 of the present application (Fig. 2 is an exploded view taken at 24 in Fig. 1 of Mueller). Rather, it is the softer exterior material 30 of the co-extrusion, which is rolled around and over the rigid inner material 32, thereby curving over the inner surface, but the inner surface of the device shown in Figs. 1 and 2 of Mueller does not curve toward the outer surface. The inner material 32 has both a straight inner surface and a straight outer surface.

Consequently, Applicants assert that Mueller does not disclose each and every

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element of claim 1 of the present application as required under 35 U.S.C. §102(b). Claim 2 has been canceled. Claims 7 and 8 depend from claim 1 and are not anticipated by Mueller for at least the reasons that claim 1 is not anticipated by Mueller.

Applicants respectfully request withdrawal of the rejection of claims 1, 7 and 8 under 35 U.S.C. §102(b) as anticipated by Mueller, (US 4,801,297).

In the Office Action claims 1-6 and 8 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Wantink (US 6,692,461) in view of Peterson et al. and Mueller.

The Office Action asserts that "Wantink discloses the invention substantially as claimed except for the inner surface of the distal tip curving towards the outer surface at the distal end. Peterson and Mueller teach that it is known to make curved and smooth catheter distal tips to prevent tissue trauma. Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Wantink's catheter tip with Peterson and Mueller's curved configuration since Peterson and Mueller suggest that such configuration would also prevent tissue trauma."

Applicants submit that Wantink describes a balloon catheter having improved maneuverability which includes an elongated catheter shaft with proximal and distal ends, proximal and distal shaft sections, a balloon on the distal catheter shaft section having proximal and distal shaft sections, a guidewire receiving lumen extending along at least a portion of the catheter shaft to the catheter shaft distal end, and a tip member on a distal end of the catheter (Abstract). Applicants submit that Wantink does not disclose a distal tip of the type recited in claim 1.

The tip of the catheter of Peterson et al. and Mueller are different than that of the distal tip of amended claim 1 of the present application for the reasons given above. Combining the tips of Peterson et al. and Mueller with the catheter assembly of Wantink, does not lead one of skill in the art to the distal tip recited in claim 1.

Claim 2 has been canceled. Claims 3-6 and 8 depend from claim 1 and are patentable for at least the reasons that claim 1 is patentable.

Applicants therefore respectfully request withdrawal of the rejection of claims 1, 3-6 and 8 under 35 U.S.C. §103(a) as being unpatentable over Wantink (US 6,692,461) in view of Peterson et al. and Mueller.

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CONCLUSION

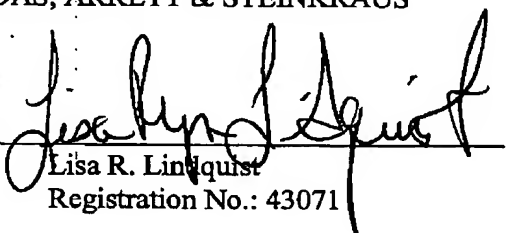
Claims 1, 3-8 and 17 are pending in the application. Applicants have addressed each of the issues presented in the Office Action. Applicants respectfully request reconsideration and an early allowance of the claims as presented. Should any issues remain, the attorney of record may be reached at (952)563-3011 to expedite prosecution of this application.

Respectfully submitted,

VIDAS, ARRETT & STEINKRAUS

Date: May 24, 2005

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